

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARK MACK MCCLOUD,

Plaintiff,

v.

PIERCE COUNTY SHERIFF DEPT.,
PAUL A PASTOR, ALLEN O'NEILL,
KAREN DANIELS, CITY OF
TACOMA,

Defendants.

CASE NO. 3:16-CV-05098-BHS-DWC

ORDER ON MOTION FOR
APPOINTMENT OF COUNSEL

The District Court has referred this 42 U.S.C. § 1983 action to United States Magistrate Judge David W. Christel. Currently pending in this action is Plaintiff's Motion to Recruit the Assistance of an Attorney Pursuant to § 1915 ("Motion for Appointment of Counsel"). Dkt. 7. No constitutional right to appointed counsel exists in a § 1983 action. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) ("[a]ppointment of counsel under this section is discretionary, not mandatory"). However, in "exceptional circumstances," a district court may appoint counsel for

1 indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Rand*
2 *v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th
3 Cir. 1998). To decide whether exceptional circumstances exist, the Court must evaluate both “the
4 likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims *pro*
5 *se* in light of the complexity of the legal issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328,
6 1331 (9th Cir. 1986) (*quoting Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff
7 must plead facts showing he has an insufficient grasp of his case or the legal issues involved and
8 an inadequate ability to articulate the factual basis of his claims. *Agyeman v. Corrections Corp.*
9 *of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

10 In Plaintiff’s Motion for Appointment of Counsel and Declaration, he states his case is
11 complex because it involves several legal issues and several defendants and his incarceration
12 limits his ability to investigate this action. Dkt. 7. After review of the record, the Court finds this
13 case does not involve complex facts or law. Further, Plaintiff has not shown an inability to
14 articulate the factual basis of his claims in a fashion understandable to the Court or shown he is
15 likely to succeed on the merits of his case. Accordingly, Plaintiff’s Motion for Appointment of
16 Counsel is denied without prejudice.

17 Dated this 23rd day of March, 2016.

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19 David W. Christel
20 United States Magistrate Judge
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